

Appl. No.: 10/077,081
TC/A.U.: 3711 Docket No.: B01-74
Reply to Office Action of December 24, 2003

REMARKS

In the specification, the paragraph under the heading "ABSTRACT" has been amended.

Claims 1-3, 7-17, 35-46, 48-50, and new claims 52-73 appear in this application for the Examiner's review and consideration. Applicants would like to thank the Examiner for acknowledging that claims 2 and 3 are directed to allowable subject matter.

Claim 1 has been amended to recite a non-ionomeric acid terpolymers or copolymer. Support for the amended element is found in the Specification, on page 10, lines 7-9.

Claim 2 has been rewritten in independent form.

Claims 7-17 have been amended to correct antecedent basis.

Claim 35 has been amended to recite a non-ionomeric material having a melt flow rate of at least about 3 grams/10 minutes.

Claim 36 has been amended to recite a melt flow rate of 5-500 grams/10 minutes. Claim 37 has been amended to recite a melt flow rate of greater than 14 grams/10 minutes. Claim 38 has been amended to recite a melt flow rate of 3-60 grams/10 minutes.

Claim 48 has been amended to recite pentachlorothiophenol or a metal salt thereof.

Claims 4-6, 18-34, 47, and 51 have been cancelled without prejudice to Applicants' right to file one or more continuing applications directed to any subject matter not presently claimed.

New claims 52-73 have been added. Support for these elements can be found throughout the Specification. No new matter has been added by these amendments and additions.

Rejections Over U.S. Patent No. 6,132,324

Claims 1, 6-13, 17, 27-39, 43, 44, and 49-51 were rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 6,132,324 to Hebert *et al.* ("Hebert").

For claims to be rejected under 35 U.S.C. § 102(b), each and every element as set forth in the claims of the present invention must be found, either expressively or inherently, in a single prior art reference. Applicants respectfully submit that Hebert does not disclose all the elements of the claimed invention. Specifically, Hebert fails to disclose or suggest at least a golf ball comprising a moisture vapor barrier layer composed of a non-ionomeric acid terpolymer or copolymer, as recited now in independent claim 1 of the present invention. Similarly, Hebert fails to disclose or suggest the use of a non-ionomeric material having a melt flow index of

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greater than about 3 grams/10 minutes, as recited now in independent claim 35 of the present invention. For at least these reasons, it is believed that Hebert does not disclose or suggest every element of the claimed invention, and these claims are not anticipated by Hebert.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation to modify the reference or combine the teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must be found in the prior art, not in Applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 493, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

As stated above, Hebert is completely silent on the use of a moisture vapor barrier layer composed of non-ionomeric acid terpolymers or copolymers in golf balls, as recited in claim 1 of the present invention. Rather, Hebert discloses the use of ionomers in the inner cover layer of a golf ball (column 5, line 55 to column 6, line 38). Such "ionomers are obtained by providing a cross metallic bond to polymers of monoolefin with ... unsaturated mono- or di-carboxylic acids ... and esters thereof ..." (column 5, lines 58-62), wherein the metallic bond is from "... a cation such as lithium, sodium, potassium, magnesium, calcium, barium, lead, tin, zinc or aluminum ..." (column 6, lines 8-10). The premise for Hebert's disclosure of acid-containing ethylene copolymers (column 6, lines 10-12) is, clearly and unambiguously, that they are ionomeric (i.e., neutralized by metallic cations). One of ordinary skill in the art understands that Hebert's ionomers are *materially different* from the non-ionomeric acid terpolymers and copolymers set forth in the present invention.

The present invention clearly states that the acid terpolymers and copolymers disclosed therein "... are non-ionomeric compounds, which are compounds that are free of ions" (see Specification, page 10, lines 7-8). The ionomers disclosed in Hebert are for an inner cover layer that changes the spin characteristics of the ball. In contrast, the non-ionomeric materials used in the present invention are for a moisture vapor barrier layer to isolate the core material from water penetration. The moisture vapor barrier layer enables the removal of the plastic feel of the ionomeric material from the golf ball. Therefore, the non-ionomeric acid terpolymers and copolymers of the present invention are not the same materials as the ionomers of Hebert.

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Furthermore, the characteristics of the non-ionomeric acid terpolymers and copolymers, such as stiffness, melt flow index, and acid level, are purposely different from the ionomers of Hebert.

For at least the above reasons, independent claims 1 and 35 are believed to be in condition for allowance. Moreover, the remaining claims 6-13, 17, 27-34, 36-39, 43, 44, and 49-51 depend from the claims discussed above and add additional features. These claims are believed to be patentable for the totality of the claimed inventions therein and by virtue of their dependence from the independent claims. As such, Applicants respectfully request that the rejections under 35 U.S.C. § 102(b) and 103(a) be reconsidered and withdrawn.

Rejection Over Hebert In View of U.S. Patent No. 4,431,193

Claims 14-16 and 45-48 were rejected under 35 U.S.C. § 103(a) as being obvious over Hebert in view of U.S. Patent No. 4,431,193 to Nesbitt ("Nesbitt").

Nesbitt fails to cure the deficiencies of Hebert set forth above, because Nesbitt is also silent on the use of non-ionomeric acid terpolymers or copolymers in golf balls. Therefore, the combination of Hebert with Nesbitt fails to disclose all claim elements of the present invention. Furthermore, Hebert provides no motivation to look to Nesbitt for inner cover thickness, because Hebert clearly discloses a thickness for the inner cover layer in a range of about 0.020 inches to about 0.045 inches (column 5, lines 51-54).

For at least the above reasons, the rejection under 35 U.S.C. § 103(a) is believed to have been overcome. Applicants respectfully request reconsideration and withdrawal thereof.

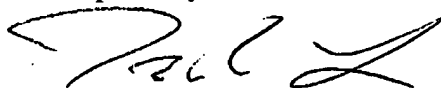
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Conclusion

Based on the remarks set forth above, Applicants believe that all of the rejections have been overcome, and the claims of the subject application are in condition for allowance. Should the Examiner have any further concerns or believe that a discussion with the Applicants' attorney would further the prosecution of this application, the Examiner is encouraged to call the attorney at the number below.

No fee is believed to be due for this submission. However, should any required fees be due, please charge them to Acushnet Company Deposit Account No. 502309.

Respectfully submitted,



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Date

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